

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

GABINO GENAO,

Plaintiff,

v.

CITY OF NEW YORK; CAPTAIN SMITH;  
CAPTAIN ANDERSON; WARDEN WALKER;  
ADJUDICATION CAPTAIN; OSIU CHIEF  
JOHN DOE; CORRECTION OFFICER  
SMART; ESH DEPUTY OF SECURITY  
RENÉ,

Defendants.

**ORDER**

20 Civ. 8721 (ER)

RAMOS, D.J.

On December 15, 2020, Gabino Genao brought this action, *pro se*, pursuant to 42 U.S.C. § 1983, alleging that the City of New York (the “City”) and several correction officers violated his constitutional rights with their handling of a disciplinary infraction while he was incarcerated on Rikers Island. Doc. 1. On March 24, 2021, Plaintiff requested that Defendants provide him with his complete medical records and with records regarding his placement in punitive segregation and in enhanced supervision hearing. Doc. 25. Plaintiff contended that the records he had received were incomplete, in violation of the New York Freedom of Information Law (“FOIL”). Doc. 25. Appeals of FOIL request denials must be made in writing to the Records Appeal Officer. Any challenge to a final denial of a FOIL request must be raised by Article 78 petition in New York State Supreme Court. N.Y. Pub. Off. § 89(5)(d)(i); C.P.L.R. § 7801 *et seq.*; *Papay v. Haselhuhn*, No. 07 Civ. 3858 (LAP), 2010 WL 4140430, at \*8 (S.D.N.Y. Oct. 21, 2020) (“Plaintiff’s next step, after following the appeal procedures outlined in FOIL itself, would be to seek review pursuant to Article 78.”).

Plaintiff’s requests for Defendants to provide him with his medical records and pre-

hearing detention records are denied at this time. Plaintiff is advised to direct discovery requests to Defendants in accordance with Rules 26(b)(1) and 34 of the Federal Rules of Civil Procedure.

The Clerk is respectfully directed to terminate the motion, Doc. 25, and to mail a copy of this Order to Plaintiff:

Gabino Genao, NYSID No. 04570951M, B&C No. 1131700734, North Infirmary  
Command, 15-00 Hazen Street, E. Elmhurst, New York 11370.

It is SO ORDERED.

Dated: April 16, 2021  
New York, New York



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Edgardo Ramos, U.S.D.J.